

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

RBS CITIZENS, NATIONAL)	
ASSOCIATION,)	
)	
<u>Plaintiff/Defendant-in-Counterclaim,</u>)	
)	
v.)	Civil Action No. 09-10116-LTS
)	
JEFFREY ARESTY and)	
ARESTY INTERNATIONAL LAW FIRM,)	
)	
<u>Defendants/Plaintiffs-in-Counterclaim.</u>)	

ORDER ON PENDING MOTIONS

May 26, 2011

SOROKIN, M.J.

Defendant Aresty’s Motion for Partial Summary Judgment (Docket # 42) is ALLOWED IN PART. Both the governing substantive legal standard and the historical facts are undisputed. The question presented is whether, on this record, drawing all reasonable inferences in Citizens’ favor, Citizens has offered sufficient evidence to warrant piercing the corporate veil to reach Aresty personally. It has not.

While he was (at the relevant time) the sole shareholder and officer of the law firm LLC, his decision to deposit the \$197,500 check into a long-dormant IOLTA account, so as not to risk co-mingling it with other client funds due concerns about the check (concerns which he did not disclose to Citizens), is insufficient under My Bread Baking Co. v. Cumberland Farms, Inc., 353 Mass. 614 (1968), to support a piercing of the corporate veil. Even if these bare facts provided a

sufficient basis to infer the use of the corporate entity for or to further a fraud by Aresty – a conclusion the Court deems unsupported on this record – this inference fails in the face of Aresty’s undisputed prompt cooperation with the Bank and the authorities upon the revelation that the check was fraudulent. Accordingly, Aresty’s Motion for Summary Judgment is ALLOWED IN PART, as described herein. Insofar as the motion seeks judgment in Aresty’s favor on all four counts of the Complaint, the Motion is DENIED.

Aresty moves for sanctions, contending that by pressing the argument in support of piercing the corporate veil set forth above, Citizens’ counsel violated Rule 11 of the Federal Rules of Civil Procedure. This Motion (Docket # 60) is DENIED.

Citizens moves for summary judgment on its breach of contract and UCC claims against the Aresty International Law Firm. This Motion (Docket # 43) is DENIED due to the existence of genuine issues of material fact.

Trial will commence on October 17, 2011. A separate trial order will issue.

SO ORDERED.

 /s / Leo T. Sorokin
Leo T. Sorokin
UNITED STATES MAGISTRATE JUDGE